

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

CROSSOVER MARKET LLC, TRILOGY,	)	
INC., TRILOGY ENTERPRISES, INC.,	)	
AND AUREA SOFTWARE, INC.,	)	
	)	
Plaintiffs,	)	Case No. 1:21-cv-640-JRN
	)	
v.	)	
	)	
STEPHANIE NEWELL,	)	
	)	
Defendant.	)	
	)	
	)	
_____	)	

**DECLARATION OF MUHAMMAD JAVED**

I, Muhammad Javed, pursuant to 28 U.S.C § 1746, declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age. This declaration is based upon my personal knowledge, and I am competent to testify regarding the matters stated herein.

2. I am currently an employee of ESW Technologies FZ-LLC, an affiliate of Crossover Market LLC (hereinafter “Crossover”). I’ve been part of Crossover and its affiliate companies since July 2015. Crossover is a recruitment platform that specializes in connecting professionals with companies across the world providing remote-based work on an independent-contractor basis. The majority of Crossover’s customers are software companies. My responsibilities while at Crossover included managing HR and payroll. Crossover was founded in 2014 as an affiliate of ESW Capital, LLC (hereinafter “ESW Capital”), a Delaware

limited liability company based in Austin, Texas. ESW Capital is a venture-capital and private-equity group that focuses on buying, strengthening, and growing mature business software companies.

3. Crossover is a company incorporated under the laws of Delaware with its principal place of business in Austin, Texas.

4. Trilogy, Inc. (hereinafter “Trilogy”) is a software company that provides a comprehensive, end-to-end business platform that enables other software companies to streamline their business functions, ranging from development to product management and Research & Development. Trilogy was founded in 1989, and it too is an affiliate of ESW Capital.

5. Trilogy is a Delaware corporation with its principal place of business in Austin, Texas.

6. Trilogy Enterprises, Inc. (hereinafter “Trilogy Enterprises”) is a software company related to Trilogy, which helps provide the comprehensive business platform that enables other software companies to streamline their business functions. Like Trilogy, Trilogy Enterprises is an affiliate of ESW Capital.

7. Trilogy Enterprises is a Delaware corporation with its principal place of business in Austin, Texas.

8. Aurea Software, Inc. (hereinafter “Aurea”) is a software company that provides a platform and solutions to companies for their customer experiences, including products for process management, messaging, customer-relationship management, email marketing, and collaboration software. Aurea is an affiliate of ESW Capital.

9. Aurea is a Delaware corporation with its principal place of business in Austin, Texas.

10. In May 2020, Stephanie Newell contacted Crossover in search of a position as an independent contractor.

11. Crossover hired Stephanie Newell in June 2020 as an independent contractor, in which position she acted as a Talent Acquisition Consultant. In this capacity, Newell assisted in hiring and human-resources tasks related to engineers working at Trilogy. Newell also assisted with various tasks related to Aurea and had access to confidential information of other companies within the ESW Holdings umbrella, including Trilogy and Trilogy Enterprises.

12. Crossover connected Newell with customers so Newell could provide them her services under the Independent Contractor Services Agreement's (the "ICSA") terms and conditions.

13. In exchange for Newell's services Crossover paid Newell "work or service fees," as specified in the ICSA.

14. In order to begin work as an independent contractor for Crossover, Newell was required to review and accept ICSA. Newell agreed to the ICSA on June 20, 2020.

15. In her role, Newell received access to confidential information belonging to Crossover, Trilogy, Trilogy Enterprises, Aurea, and their affiliates. This included, among other things, a copy of a ESW Capital's internal "playbook," the contents of internal email communications sent by the founder of ESW Capital, internal messages between Crossover representatives and contractors, and confidential salary and staffing information.

16. The information Newell disclosed comprises “technical, product, business, financial, and other information regarding the business and software programs of our Company, its Affiliates, customers, employees, investors, contractors, vendors and suppliers.” See **Ex. A** (ICSA § 4.1). It further includes documentation, marketing plans and business methods of Crossover and its affiliates (including Trilogy, Trilogy Enterprises, and Aurea). *Id.* As such, the ICSA required her to “protect and safeguard” the information and “not to disclose, give, transmit or otherwise convey” the information to “any other party.” See **Ex. A** (ICSA § 4.2).

17. Crossover’s affiliates, including Trilogy, Trilogy Enterprises, and Aurea, are third party beneficiaries of the confidentiality-related obligations in the ICSA, with the right to enforce those provisions. *Id.*

18. Throughout the duration of her employment, Newell was employed remotely and resided in Carmel, Indiana.

19. Between 2020 and 2021, Newell improperly and unlawfully disclosed Crossover’s, Trilogy’s, Trilogy Enterprises’, and Aurea’s confidential and proprietary information to unauthorized third parties. Newell disclosed confidential and proprietary information to Nathan Vardi, a Senior Editor at *Forbes* Media. Newell improperly accessed, and provided Vardi unauthorized access, to Plaintiffs’ computer systems. Newell improperly downloaded Plaintiffs’ confidential and proprietary information to her personal computer. She further improperly and unlawfully transmitted confidential and proprietary information by sending attachments and links to cloud-based documents to Vardi.

20. On April 27, 2021, Vardi published an article on the *Forbes* website, entitled “The Billionaire Who Pioneered Remote Work Has a New Plan to Turn His Workers into Algorithms”

(a true and correct copy is attached to the Motion and incorporated hereto as **Exhibit B**). That article contains confidential information that Newell shared with Vardi, including, for example, a copy of a Trilogy Enterprises' internal "new playbook." Additional confidential information shared in the article, which Vardi obtained from Newell, included the contents of internal e-mails from the founder of ESW Capital as well as confidential salary and staffing information related to Crossover. The article also included information from "internal text messages" and confidential internal messages between Crossover representatives and contractors.

21. Crossover terminated Newell's ICSA in March 2021.

22. Stephanie Newell had access to an extensive amount of Plaintiffs' sensitive information and data. Given her past actions, Crossover is concerned that she has downloaded, printed, screenshot, or otherwise retained some or all of this information.

23. The loss of commercially sensitive documents poses a distinct threat to Plaintiffs because, in the highly competitive software industry, even small reputational injuries can have significant implications. Crossover and its affiliates rely on attracting talented individuals to work as independent contractors, and Newell's actions have placed confidential information—painted in a negative light—in the public, which will likely dissuade at least some individuals from coming to work for Crossover. Further disclosures from Newell would exacerbate the harm to Plaintiffs and would be difficult to quantify at a trial. This is particularly true for the harm that comprises a reduction in the ability to attract and retain talented people to work at Crossover and its affiliates.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10th December 2021.

A handwritten signature in blue ink, appearing to be 'MJ' or similar, written in a cursive style.

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Muhammad Javed